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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,899	11/28/2001	Robert J. Macdonald	34200	1559
116	7590	10/02/2003	EXAMINER	
PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			CONLEY, FREDRICK C	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 10/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/995,899

Applicant(s)

MACDONALD, ROBERT J.

Examiner

Fredrick C Conley

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10 and 12-15 is/are allowed.
- 6) ☒ Claim(s) 1-5, 9 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 6-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### ***Specification***

The disclosure is objected to because of the following informalities: Reference "7" is missing from the specification. The specification does not provide support for the method of making the fitted sheet with arcuate seam. Disclosure provides support for an angled seam. Appropriate correction is required.

The claims are objected to because of the objections stated above.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,723,331 Weiss.

In reference to claim 1, Weiss discloses a fitted sheet for a mattress comprising a rectangular panel 34 of knit material having a central rectangular area, as shown by the dotted line 43, extending from one end of said panel to the other end thereof, and side margins (40,42) flanking said central area, said side margins being folded under said central area and joined thereto by seams (col. 3 lines 62-63) extending across each end of said central rectangular area, characterized in that said seams at each end of said central rectangular area are arcuate (col. 3 lines 35-65).

Regarding claim 2, further characterized in that said seams are symmetrical about a mid-line of said central area that from end to end thereof (fig. 5).

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Regarding claim 3, further characterized in that on each side of said mid-line of said central area, at each end of said sheet, said seam curves downwardly toward a folded side edge of said sheet (fig. 5).

Regarding claim 4, further characterized in that said seam is inherently flatter near said mid-line, and more convex near said folded side edge of said sheet.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 2,942,280 to May.

In reference to claim 1, May discloses a fitted sheet for a mattress comprising a rectangular panel 11 of knit material having a central rectangular area extending from one end of said panel to the other end thereof, and side margins (12) flanking said central area, said side margins being folded under said central area and joined thereto by seams 16 extending across each end of said central rectangular area, characterized in that said seams at each end of said central rectangular area are arcuate (fig. 3 & 5).

Regarding claim 2, further characterized in that said seams are symmetrical about a mid-line of said central area that runs from end to end thereof (fig. 1-2).

Regarding claim 3, further characterized in that on each side of said mid-line of said central area, at each end of said sheet, said seam curves downwardly toward a folded side edge of said sheet (fig. 3 & 5).

Regarding claim 4, further characterized in that said seam is inherently flatter near said mid-line, and more convex near said folded side edge of said sheet (fig. 3 & 5).

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In reference to claim 5, May discloses a sheet comprising a rectangular panel of knit material having a central rectangular area 11 extending from one end of said panel to the other end thereof, and side margins (12,13) flanking said central area, said side margins being folded under said central area and joined thereto by seams extending across each end of said central rectangular area (col. 3 lines 5-12). May discloses finishing the lower side edges by enclosing elastic in a tape of soft material to provide a soft and attractive edge (col. 4 lines 14-21). Therefore, it is inherent that the side edges are not finished until the elastic seam is sewn directly over the unfinished edge.

Regarding claims 9 and 16-20, including a loop or length of material 26 extending from the seam at one end of the sheet.

#### ***Allowable Subject Matter***

Claims 10 are 12-15 allowed.

Claims 6-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments filed 07/15/03 have been fully considered but they are not persuasive. Contrary to the Applicant's arguments, Weiss clearly discloses a central rectangular area, represented in the dotted lines 43, extending from one end of said panel 34. Furthermore, the side margins (40,42) flank said central area 43 from one end of said central area to the other end thereof, and are folded under said central area and joined thereto by seams and extending across each end.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fredrick C Conley whose telephone number is 308-7468. The examiner can normally be reached on m-th m-fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on 308-2978. The fax phone numbers for the organization where this application or proceeding is assigned are 305-7687 for regular communications and 3057687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-2168.



September 30, 2003



**TERI PHAM LUU  
PRIMARY EXAMINER**